



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/027,265	12/21/2001	Rosann Marie Matthews Kaylor	16,976	3108

23556 7590 11/15/2006

KIMBERLY-CLARK WORLDWIDE, INC.
401 NORTH LAKE STREET
NEENAH, WI 54956

EXAMINER

FOREMAN, JONATHAN M

ART UNIT PAPER NUMBER

3736

DATE MAILED: 11/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/027,265
Filing Date: December 21, 2001
Appellant(s): KAYLOR ET AL.

MAILED
NOV 15 2006
GROUP 3700

Sebastian C. Pugliese III
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 8/25/06 appealing from the Office action mailed 2/22/06.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

A substantially correct copy of appealed claims appears on pages 9 - 20 of the Appendix to the appellant's brief. The minor errors are as follows: Claims 41, 46 and 51 should include the proper status identifier "Previously Presented" and should not include any underlined words since the amendment was made 6/30/05 and not presently.

Art Unit: 3736

(8) Evidence Relied Upon

No evidence is relied upon by the examiner in the rejection of the claims under appeal.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 41, 43 and 75 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,327,744 to Smith.

In regards to claims 41, 43 and 75, Smith discloses a method for collecting a sample from a test subject, the method including providing a device (12) adapted to capture and retain the sample, wherein the device includes a generally tubular elastic nonwoven (Col. 1, lines 50 – 52) body including a generally tubular inner surface defined by an interior layer, the inner surface defining a pocket there within, the pocket having a distal end (16) and a proximal end, the distal end (16) being generally closed and the proximal end being generally open, the proximal end being configured to allow the insertion of a finger into the pocket through the proximal end (Col. 2, lines 56 – 58), and a generally tubular outer surface; inserting a finger into the pocket; and contacting the sample with the device (Col. 3, lines 31 – 33). The sample is selected from the group consisting of: saliva, mucous,

Art Unit: 3736

lung-based sputum, oral plaque, nasal fluid, tears, ear wax, vaginal fluid, cervical fluid, menses, seminal fluid, urine, blood, feces, sweat, skin oils, skin cells, scalp debris, cerebrospinal fluid, amniotic fluid, synovial fluid, serous fluid, and bronchial washings.

Claims 41, 43 - 45 and 75 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,920,974 to Roth et al.

In regards to claims 41, 43 - 45 and 75, Roth et al. discloses a method for collecting a sample from a test subject, the method including providing a device adapted to capture and retain the sample, wherein the device includes a generally tubular elastic nonwoven (Col. 3, lines 13 – 16) body including a generally tubular inner surface defined by an interior layer, the inner surface defining a pocket there within, the pocket having a distal end and a proximal end, the distal end being generally closed and the proximal end being generally open (Col. 3, lines 6 – 9), the proximal end being configured to allow the insertion of a finger into the pocket through the proximal end (Col. 3, lines 9 – 10), and a generally tubular outer surface; inserting a finger into the pocket (Col. 4, lines 40 – 44); and contacting the sample with the device (Col. 4, lines 45 – 46). The sample is selected from the group consisting of: saliva, mucous, lung-based sputum, oral plaque, nasal fluid, tears, ear wax, vaginal fluid, cervical fluid, menses, seminal fluid, urine, blood, feces, sweat, skin oils, skin cells, scalp debris, cerebrospinal fluid, amniotic fluid, synovial fluid, serous fluid, and bronchial washings. The device includes an interior layer including a substantially liquid impermeable barrier material (Col. 3, lines 13 – 16) that is breathable (Col. 3, lines 8 – 9) to water vapor.

Claims 41, 43, 51, 53, 56, 57, 75, 77 and 79 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,123,676 to Anapliotis.

In regards to claims 41, 43, 51, 53, 56, 57, 75 and 77, Anapliotis discloses a method for collecting a sample from a test subject, the method including providing a device (Figure 2) adapted

Art Unit: 3736

to capture and retain the sample, wherein the device includes a generally tubular elastic nonwoven (Col. 1, lines 51 – 54; Col. 4, lines 33 – 37) body including a generally tubular inner surface defined by an interior layer, the inner surface defining a pocket there within, the pocket having a distal end and a proximal end, the distal end being generally closed and the proximal end being generally open (14; Figure 2), the proximal end being configured to allow the insertion of a finger into the pocket through the proximal end (Col. 4, lines 26 – 30), and a generally tubular outer surface; inserting a finger into the pocket; and contacting the sample with the device. The sample is selected from the group consisting of: saliva, mucous, lung-based sputum, oral plaque, nasal fluid, tears, ear wax, vaginal fluid, cervical fluid, menses, seminal fluid, urine, blood, feces, sweat, skin oils, skin cells, scalp debris, cerebrospinal fluid, amniotic fluid, synovial fluid, serous fluid, and bronchial washings. Anapliotis discloses observing a reaction of the sample with an indicator agent on the device without electromechanical assistance (Col. 4, lines 46 – 49). Light is needed to observe the reaction.

In regards to claim 79, Anapliotis discloses providing a device (Figure 2) adapted to capture and retain a sample, the device including a generally tubular body including a first panel (18) attached to a second panel, the first panel and the second panel defining a pocket there between, the pocket having a distal end and a proximal end, the distal end being closed, the proximal end being open (14) and configured to allow the insertion of a finger into the pocket (Col. 4, lines 26 – 30), the second panel comprising an elastic nonwoven material (Col. 1, lines 51 – 54; Col. 4, lines 33 – 37), wherein the device has a generally tubular outer surface including an indicator agent; contacting the substance to be sampled; and observing the reaction of the sample with the indicator agent (Col. 4, lines 46 – 49).

Claim 79 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,672,351 to Ubersax et al.

In regards to claim 79, Ubersax et al. discloses providing a device (Figure 1) adapted to capture and retain a sample, the device including a generally tubular body including a first panel (2') attached to a second panel (1), the first panel and the second panel defining a pocket there between, the pocket having a distal end and a proximal end, the distal end being closed, the proximal end being open and configured to allow the insertion of a finger into the pocket, the second panel comprising an elastic nonwoven material (Col. 1, line 30), wherein the device has a generally tubular outer surface including an indicator agent (Col. 1, lines 33 –36); contacting the substance to be sampled; and observing the reaction of the sample with the indicator agent (Col. 2, lines 16 -17).

Claim 78 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,335,731 to Bora, Jr.

In regards to claim 78, Bora, Jr. discloses providing a finger glove (Figures 4a – 4c) device adapted to capture and retain a sample, wherein the finger glove device includes a generally tubular body including an open end for the insertion of a finger, the body comprising a first panel (38) thermally bonded (Col. 3, lines 20 – 25) to a second panel (34) thereby forming a seam, the first panel comprising a non-elastic material (Col. 3, lines 28 – 30) containing a nonwoven web (Col. 3, lines 30 – 34), the second panel comprising an elastic nonwoven material (Col. 3, lines 25 – 28), the elastic nonwoven material being capable of being stretched and contracted for providing the finger glove device with form fitting properties; inserting a finger into the open end (Col. 3, lines 38 – 40); and contacting the sample with the finger glove device (Col. 3, lines 10 –11).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the

Art Unit: 3736

subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 41, 43, 46, 48 and 76 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication No. 2004/0092843 to Kreiser et al. in view of U.S. Patent No. 5,728,340 to Dreibelbis et al.

In regards to claims 41, 43, 46, 48 and 76, Kreiser et al. discloses a method for collecting a sample from a test subject, the method including providing a device adapted to capture and retain the sample, wherein the device includes a generally tubular body including a generally tubular inner surface defined by an interior layer, the inner surface defining a pocket there within, the pocket having a distal end and a proximal end, the distal end being generally closed and the proximal end being generally open, the proximal end being configured to allow the insertion of a finger into the pocket through the proximal end [0016], and a generally tubular outer surface; inserting a finger into the pocket; and contacting the sample with the device [0017]. The sample is selected from the group consisting of: saliva, mucous, lung-based sputum, oral plaque, nasal fluid, tears, ear wax, vaginal fluid, cervical fluid, menses, seminal fluid, urine, blood, feces, sweat, skin oils, skin cells, scalp debris, cerebrospinal fluid, amniotic fluid, synovial fluid, serous fluid, and bronchial washings. Kreiser et al. discloses analyzing the device using a reader [0019]. Kreiser et al. discloses the tubular body being a surgical glove, but fails to disclose forming the tubular member of a nonwoven elastic material. However, Dreibelbis et al. discloses a nonwoven elastic material suitable for use in forming a surgical glove (See Abstract). It would have been obvious to form the tubular body as disclosed by Kreiser et al. from a nonwoven elastic material as taught by Dreibelbis et al. in order to make the tubular body more resistant to punctures and tearing (See Abstract).

Art Unit: 3736

Claims 44, 45, 54 and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,123,676 to Anapliotis as applied to claims 41 and 51 above and further in view of U.S. Patent No. 6,114,024 to Forte.

In regards to claims 44, 45, 54 and 55, Anapliotis discloses the device having an interior layer including a barrier material (Col. 4, lines 33 – 34) but fails to disclose the barrier material being breathable to water vapor. Forte teaches a device being formed of a moisture barrier material that is substantially impermeable to liquids yet breathable to water vapor (Col. 1, lines 28 – 37). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device as disclosed by Anapliotis to include a material that is substantially impermeable to liquids yet breathable to water vapor as taught by Forte in order to allow the body of the user to cool naturally (Col. 1, lines 28 – 29).

Claims 49 and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication No. 2004/0092843 to Kreiser et al. in view of U.S. Patent No. 5,728,340 to Dreibelbis et al. as applied to claim 46 above and further in view of U.S. Patent No. 6,114,024 to Forte.

In regards to claims 49 and 50, Kreiser et al. in view of Dreibelbis et al. discloses the device having an interior layer including a material but fails to disclose the barrier material being breathable to water vapor. Forte teaches a device being formed of a moisture barrier material that is substantially impermeable to liquids yet breathable to water vapor (Col. 1, lines 28 – 37). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device as disclosed by Kreiser et al. in view of Dreibelbis et al. to include a material that is substantially impermeable to liquids yet breathable to water vapor as taught by Forte in order to allow the body of the user to cool naturally (Col. 1, lines 28 – 29).

Claim 58 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,123,676 to Anapliotis as applied to claim 51 above and further in view of U.S. Patent No. 5,660,790 to Lawrence et al.

In regards to claim 58, Anapliotis discloses a method of analyzing a sample including observing the reaction visually (Col. 4, line 48), but fails to disclose observing the reaction using a reader. Lawrence et al. discloses a method of analyzing a sample (Col. 7, line 57 – Col. 8, line 18) including observing the reaction visually or with a reader (Col. 12, lines 14 – 19). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method as disclosed by Anapliotis to include the step of observing the reaction using a reader as taught by Lawrence et al. in order to more precisely quantify the reaction.

(10) Response to Argument

Applicant's arguments have been fully considered but they are not persuasive.

In regards to the rejection of claims 41, 43 and 75 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,327,744 to Smith, Applicant asserts that Smith fails to disclose “a generally tubular elastic nonwoven body.” Applicant points out that Smith discloses the tubular elastic body to be “constructed of an elastomeric material such as silicone latex of the type used for surgical gloves.” (See Smith, Col. 1, lines 50 – 52). Although, Applicant asserts that the elastic nonwoven body disclosed by Smith is in fact not a nonwoven body because the present application defines a “nonwoven web” as “a web having a structure of individual fibers or threads that are interlaid, but not in an identifiable manner as in a kitted fabric.” (See present Application page 6, line 16). However, claims 41, 43 and 75 are directed to a nonwoven body, not a “nonwoven web.”

Claim terms are presumed to have the ordinary and customary meanings attributed to them by those of ordinary skill in the art. *Sunrize Roots Enter. Co. v. SRAM Corp.*, 336 F.3d 1298, 1302,

Art Unit: 3736

67 USPQ2d 1438, 1441 (Fed. Cir. 2003); Brookhill-Wilk 1, LLC v. Intuitive Surgical, Inc., 334 F.3d 1294, 1298, 67 USPQ2d 1132, 1136 (Fed. Cir. 2003) (“In the absence of an express intent to impart a novel meaning to the claim terms, the words are presumed to take on the ordinary and customary meanings attributed to them by those of ordinary skill in the art.”) However, an applicant is entitled to be his or her own lexicographer and may rebut the presumption that claim terms are to be given their ordinary and customary meaning by clearly setting forth a definition of the term that is different from its ordinary and customary meaning. See *In re Paulsen*, 30 F.3d 1475, 1480, 31 USPQ2d 1671, 1674 (Fed. Cir. 1994) >and *Vitronics Corp. v. Conceptiontronic Inc.*, 90 F.3d 1576, 1582, 39 USPQ2d 1573, 1576 (Fed. Cir. 1996)<. Where an explicit definition is provided by the applicant for a term, that definition will control interpretation of the term as it is used in the claim. *Toro Co. v. White Consolidated Industries Inc.*, 199 F.3d 1295, 1301, 53 USPQ2d 1065, 1069 (Fed. Cir. 1999) (meaning of words used in a claim is not construed in a “lexicographic vacuum, but in the context of the specification and drawings.”). Office personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. *In re Morris*, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Limitations appearing in the specification but not recited in the claim are not read into the claim. *E-Pass Techs., Inc. v. 3Com Corp.*, 343 F.3d 1364, 1369, 67 USPQ2d 1947, 1950 (Fed. Cir. 2003) (claims must be interpreted “in view of the specification” without importing limitations from the specification into the claims unnecessarily). *In re Prater*, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969). See also *In re Zletz*, 893 F.2d 319, 321-22, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989) (“During patent examination the pending claims must be interpreted as broadly as their terms reasonably allow.... The reason is simply that during patent prosecution when claims can be amended, ambiguities should be recognized, scope and breadth of language explored, and clarification imposed.... An essential purpose of patent

Art Unit: 3736

examination is to fashion claims that are precise, clear, correct, and unambiguous. Only in this way can uncertainties of claim scope be removed, as much as possible, during the administrative process.”).

Because the claims are not directed to a “nonwoven web”, the definition set forth by the Applicant on page 6, line 16 of the present application does not limit the claim language. The Examiner maintains that the tubular elastic nonwoven material as disclosed by Smith anticipates the broadest reasonable interpretation of “a generally tubular elastic nonwoven body.”

In regards to the rejection of claims 41, 43 - 45 and 75 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,920,974 to Roth et al., Applicant asserts that Roth et al. fails to disclose “a generally tubular elastic nonwoven body.” Applicant points out that Roth et al. discloses the tubular elastic body to be “fabricated from an inexpensive, water-impermeably rubbery material such as natural rubber (latex) or a synthetic material such as polyurethane or the like” (See Roth et al., Col. 3, lines 13-16). Although, Applicant asserts that the elastic nonwoven body disclosed by Roth et al. is in fact not a nonwoven body because the present application defines a “nonwoven web” as “a web having a structure of individual fibers or threads that are interlaid, but not in an identifiable manner as in a kitted fabric.” (See present Application page 6, line 16). However, claims 41, 43 - 45 and 75 are directed to a nonwoven body, not a “nonwoven web.” Because the claims are not directed to a “nonwoven web”, the definition set forth by the Applicant on page 6, line 16 of the present application does not limit the claim language. The Examiner maintains that the tubular elastic nonwoven material as disclosed by Roth et al. anticipates the broadest reasonable interpretation of “a generally tubular elastic nonwoven body.”

In regards to the rejection of claims 41, 43, 51, 53, 56, 57, 75, 77 and 79 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,123,676 to Anapliotis, Applicant asserts that

Art Unit: 3736

Anapliotis fails to disclose “a generally tubular elastic nonwoven body.” Applicant points out that Anapliotis discloses a “slip-on, elastic protective clothing article...” (See Anapliotis Col. 1, lines 51 – 54). Anapliotis further discloses that the elastic article is “preferably made of polyethylene.” However, Applicant asserts that the elastic nonwoven body disclosed by Anapliotis is in fact not a nonwoven body because the present application defines a “nonwoven web” as “a web having a structure of individual fibers or threads that are interlaid, but not in an identifiable manner as in a kitted fabric.” (See present Application page 6, line 16). However, claims 41, 43, 51, 53, 56, 57, 75 and 77 are directed to a nonwoven body and claim 79 is directed to a nonwoven material, not a “nonwoven web.” Because the claims are not directed to a “nonwoven web”, the definition set forth by the Applicant on page 6, line 16 of the present application does not limit the claim language. The Examiner maintains that the tubular elastic nonwoven material as disclosed by Anapliotis anticipates the broadest reasonable interpretation of “nonwoven body” and “nonwoven material”.

In regards to the rejection of claim 79 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 3,672,351 to Ubersax et al., Applicant asserts that Ubersax et al. fails to disclose a generally tubular body which includes the recited nonwoven panels. It is noted that the claim does not require both panels to be nonwoven. Nevertheless, Ubersax et al. discloses a first panel (2') formed of paper and a second panel (1) formed of rubber or other elastic or plastic material. The Examiner maintains that the nonwoven material of the second panel as disclosed by Ubersax et al. anticipates the broadest reasonable interpretation of an “elastic nonwoven material.”

In regards to the rejection of claim 78 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,335,731 to Bora, Jr., Applicant asserts that Bora, Jr. fails to disclose a generally tubular body that includes the recited nonwoven panels. However the Examiner disagrees. Bora, Jr.

Art Unit: 3736

discloses a generally tubular body (Figure 4a) comprising a first panel (38) thermally bonded (Col. 3, lines 20 – 25) to a second panel (34) thereby forming a seam, the first panel comprising a non-elastic material (Col. 3, lines 28 – 30) containing a nonwoven web (Col. 3, lines 30 – 34), the second panel comprising an elastic nonwoven material (Col. 3, lines 25 – 28), the elastic nonwoven material being capable of being stretched and contracted for providing the finger glove device with form fitting properties; inserting a finger into the open end (Col. 3, lines 38 – 40).

In regards to the rejection of claims 41, 43, 46, 48 and 76 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication No. 2004/0092843 to Kreiser et al. in view of U.S. Patent No. 5,728,340 to Dreibelbis et al., Applicant asserts that the references fail to disclose, either individually, or in combination, a device employing nonwoven materials for use in methods as claimed. However, the Examiner disagrees. Kreiser et al. discloses the claimed method and teaches the use of a surgical glove, but fails to disclose the material of the surgical glove. Dreibelbis et al. discloses a nonwoven elastic material for use in a surgical glove (See Abstract). Dreibelbis et al. provides motivation for modifying the surgical glove as disclosed by Kreiser et al. to be formed of the nonwoven elastic material. The Examiner maintains that a prima facie case of obviousness has been established in that a motivation for combining the references is found in the references themselves, there is a reasonable expectation of success in the suggested combination and each of the claim limitations are taught or suggested in the references when combined.

In regards to the rejection of claims 44, 45, 54 and 55 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,123,676 to Anapliotis in view of U.S. Patent No. 6,114,024 to Forte, Applicant asserts that the references fail to disclose either individually, or in combination, a device employing nonwoven materials for use in methods as claimed. However, the Examiner disagrees. Anapliotis discloses the claimed method except for the barrier material being breathable

Art Unit: 3736

to water vapor. Forte teaches a barrier material that is breathable to water vapor and provides motivation for modifying the barrier material as disclosed by Anapliotis. The Examiner maintains that a prima a facie case of obviousness has been established in that a motivation for combining the references is found in the references themselves, there is a reasonable expectation of success in the suggested combination and each of the claim limitations are taught or suggested in the references when combined.

In regards to the rejection of claims 49 and 50 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication No. 2004/0092843 to Kreiser et al. in view of U.S. Patent No. 5,728,340 to Dreibelbis et al. and further in view of U.S. Patent No. 6,114,024 to Forte, Applicant asserts that the references fail to disclose either individually, or in combination, a device employing nonwoven materials for use in methods as claimed. Applicant again relies on the definition of a “nonwoven web” (See Application page 6, line 16). However, the claim from which claims 49 and 50 depend, merely requires a nonwoven body. The limitation “nonwoven body” does not induce the special definition related to a “nonwoven web”. Therefore, the Examiner maintains that a prima a facie case of obviousness has been established in that a motivation for combining the references is found in the references themselves, there is a reasonable expectation of success in the suggested combination and each of the claim limitations are taught or suggested in the references when combined.

In regards to the rejection of claim 58 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,123,676 to Anapliotis in view of U.S. Patent No. 5,660,790 to Lawrence et al., Applicant asserts that the references fail to disclose either individually, or in combination, a device employing nonwoven materials for use in methods as claimed. However, the Examiner disagrees. Anapliotis discloses the claimed method including observing the reaction visually and fails to

Art Unit: 3736

disclose observing the reaction using a reader. Lawrence et al. discloses a method of analyzing a sample including observing the reaction visually or with a reader and provides motivation for observing the reaction using a reader. The Examiner maintains that a prima facie case of obviousness has been established in that a motivation for combining the references is found in the references themselves, there is a reasonable expectation of success in the suggested combination and each of the claim limitations are taught or suggested in the references when combined.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.


For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

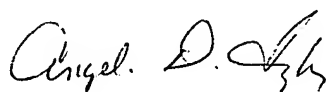
JMLF



Conferees:



MATTHEW H. ROSENBERG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700



ANGELA D. SYKES
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700